

BOARD COMMITTEE ON REGULATION AND DISCIPLINE COMMITTEE CE

(Amended by the Board of Governors, ~~August 26, 2000~~ October 19, 2001)

§ 1. Discipline: Areas of Responsibility

- a. The Board of Governors looks to the board committee for recommendations in certain matters on which the board itself is required to act. For example, appointment and reappointment of pro tempore judges to the State Bar Court; appointment and reappointment of probation monitors to the Probation Department, Office of the Chief Trial Counsel; ~~appointment and reappointment of Discipline Audit Panel members.~~
- b. Further, by statute (Bus. & Prof. Code § 6086), the Board of Governors is authorized to provide by rule the procedures to be followed in disciplinary matters. Accordingly, the board also looks to the board committee for recommendations regarding adoption of the Rules of Procedure of the State Bar.
- c. **By statute (Bus. & Prof. Code § 6079.5), the Chief Trial Counsel reports to and serves under the board committee.**
- ~~e.~~
- d. The board committee may discuss substantive proposals regarding the disciplinary process.
- ~~d.~~
- e. The board committee has been authorized by the board pursuant to certain Rules of Procedure of the State Bar to perform various functions in connection with the ~~operation of the State Bar Court discipline system.~~ For example, (1) waiving compliance with the rule (**rule 3101, Rules Proc. of State Bar**) that otherwise precludes certain persons from representing a party ~~before the State Bar Court~~ **involving the regulatory jurisdiction of the State Bar; (2) acting with respect to matters involving complaints against the Chief Trial Counsel (rule 2201 (i), Rules of Proc.); and (3) receiving reports, as requested, with respect to matters involving a member of the Chief Trial Counsel's office (rule 2201(j), Rules of Proc.).**

(Source: Board of Governors' Resolution, October 1986)

§ 2. Admissions: Areas of Responsibility

- a. The board committee has oversight responsibility relative to the admission and certification of lawyers to practice law in the State of California. Specifically, the board committee has oversight responsibility of the Committee of Bar Examiners and the Office of Admissions in matters relating to educational standards and requirements (except for continuing legal education), examination standards and requirements, moral character and fitness to practice law standards and requirements and such other matters as may, from time- to- time come before it.
- b. The board committee shall make recommendations to the full board concerning the promulgation and revision of statutes and rules in the following areas:
 - i. Sections 6060 through and including 6066 of the Business and Professions Code and

related statutes governing the examination committee;

- ii. Approval of the Rules Regulating Admission to Practice Law in California;
 - iii. Rules of Procedure pertaining to proceedings for hearing and review of moral character and fitness to practice law determinations in the State Bar Court; and
 - iv. Rules of general application pertaining to the further examination and certification of attorneys already admitted to practice in California (not including legal specialization).
- c. The board committee shall make recommendations to the board re adoption, enactment or amendment of rules of or statutes which creates limited areas of practice of law by those not admitted generally to practice law in California, **including but not limited to, multi-jurisdictional practice.** ~~provided that the board committee shall initially consider proposed revisions to rules re Counsel Pro Hac Vice and Foreign Legal Consultants, California Rules of Court, and that the board committee shall initially consider proposed revisions to the Rules Governing the Practical Training of Law Students.~~

(Source: Board of Governors' Resolution, October 1986, June 1988.)

§ 3. *Certification ~~and Competence~~: Areas of Responsibility.*

This committee makes reports and recommendations to the board concerning the promulgation and revision of ~~professional~~ **certification** standards related to the State Bar's ~~statutory duties~~ **regulatory functions under certain statutes and rules of court** ~~and historic function to assist the Supreme Court in regulating the legal profession; (specifically, these include:)~~

- a. *Law Corporations*: State Bar Act, article 10 (Bus. & Prof. Code §§ 6160, et seq.) and Law Corporations Rules of the State Bar of California.
- b. *Legal Specialization*: The State Bar of California Program for Certifying Legal Specialist (AThe Program@), Rules and Regulations of the Program, Standards for Certification and Recertification of Specialists, and Policies Governing the Program. The board committee shall have the authority to consider and act upon Applications for Accreditation of Specialty Certification Programs for Attorneys.
- c. *Foreign Legal Consultants*: **Rule 988, California Rules of Court requires the State Bar to establish and administer a program for registering foreign attorneys or counselors at law pursuant to rules adopted by the Board. The board committee shall have the authority to consider and make recommendations to the Board regarding proposed rules and policies relating to this program.**
- d. *Limited Liability Partnerships*: By statute (Corp. Code §§ 16100, et seq.), limited liability partnerships for the practice of law are subject to regulation by the State Bar. The board committee shall have the authority to consider and make recommendations to the Board regarding the State Bar's Limited Liability Partnership Rules and Regulations.
- e. *Certified Law Students*: **Rule 983.2, California Rules of Court, requires the State Bar to establish and administer a program for certifying law student to provide legal services under the supervision of an attorney. The board committee shall have the authority to consider and make recommendations to the Board regarding rules and policies for the**

Practical Training of Law Students Program.

- f. *Out-of-State Attorney Arbitration Counsel (OSAAC) Program:*** Rule 983.4 of the California Rules of Court requires the State Bar to establish and administer a program to implement the State Bar's responsibilities under Code of Civil Procedure section 1282.4 for out-of-state attorneys to represent parties in the course of, or in connection with, an arbitration proceeding in California. The board committee shall have the authority to consider and make recommendations to the Board regarding the adoption and/or amendment of rules and regulations for the operation of this program.
- g. *Pro Hac Vice:*** The board committee shall have the authority to consider and make recommendations to the Board regarding the Pro Hac Vice program, including proposed amendments to rule 983 of the California Rules of Court, and the Pro Hac Vice Program Rules and Regulations.

~~5. Professional Responsibility and Conduct: California statutes or Court Rules respecting the professional duties and obligations of members of the bar and others practicing law in California, Rules of Professional Conduct of the State Bar of California, publication of advisory ethics opinions, and Rules of Procedure of the Committee on Professional Responsibility and Conduct.~~

~~6. Unauthorized Practice of Law: State Bar Act, article 7 (Bus. & Prof. Code, " 6125, et seq.), Rules of Procedure or other standards which have an impact either on professional standards for attorneys or the unauthorized practice of law; provided that this committee shall initially consider proposed revisions to the Rules Governing the Practical Training of Law Students and the board committee shall initially consider proposed revisions to rule 983 (Counsel Pro Hac Vice) and rule 988 (Foreign Legal Consultants), California Rules of Court. This committee shall make recommendations to the board re adoption, enactment or amendment of rules or statutes which create other limited areas of practice of law by those not admitted generally to practice law in California.~~

- h. *Minimum Continuing Legal Education (MCLE):*** State Bar Act, article 4.5 (Bus. & Prof. Code §§ 6070-6071) and rule 958, California Rules of Court require the State Bar to establish and administer a minimum continuing legal education program. The board committee shall have authority to consider and act upon proposed rules and policies relating to the administration and operation of the MCLE program.

(Source: Board of Governors Resolution, October 1986, June 1988, April 1996.)

§ 4. Competence

- a.** By statute (Bus. & Prof. Code §§ 6076-6077), the Board is authorized to formulate rules of professional conduct that are binding upon members of the State Bar when approved by the Supreme Court. Accordingly, the Board looks to the board committee for reports and recommendations concerning proposed new or amended rules of professional conduct.
- b.** The board committee also shall make reports and recommendations to the Board concerning proposed new or amended ~~Professional Responsibility and Conduct: California statutes, or Court Rules or other laws~~ respecting the professional duties and obligations of members of the bar and others practicing law in California, ~~Rules of Professional Conduct of the State Bar of California, publication of advisory ethics opinions, and Rules of Procedure of~~

~~the Committee on Professional Responsibility and Conduct.~~

- c. **The board committee has oversight responsibility for: the publication of advisory ethics opinions; the Rules of Procedure of the Committee on Professional Responsibility and Conduct; the State Bar Ethics Hotline program and the State Bar Lawyers Personal Assistance Program.**

§ 4. Recommendation for Appointments

~~The committee makes recommendations for board appointment of members to the Committee of Bar Examiners, Law School Council, and other State Bar entities as designated by the president.~~

~~(Source: Annual Board of Governors= Resolutions, October 1986, June 1988, March 1992.)~~

§ 5. Mandatory Fee Arbitration

- a. The board committee is responsible for receiving reports and making recommendations to the board on the:
 - i. State Bar Act, article 13 (Bus. & Prof. Code §§ 6200, et seq.) and other rules, regulations and codes related to attorney fees, fee agreements and fee arbitration;
 - ii. Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitration Programs and forms required for the statewide program;
 - iii. Rules of Procedure for Fee Arbitrations and the Enforcement of Awards by the State Bar of California; and
 - iv. Sample written fee agreement forms.
- b. The committee has the authority to find local bar association fee arbitration programs in compliance with the State Bar Minimum Standards for Mandatory Fee Arbitration Programs, provided that the finding is unanimous. When the recommendation is not unanimous and dissent is registered, the matter of whether a local bar association fee arbitration program is in compliance with the State Bar minimum standards shall be referred to the full board.

(Source: Board of Governors' Resolution, April 1995.)

§ 6. Client Security Fund

The committee has oversight responsibility for the general operations of the Client Security Fund Commission, including:

- a. Approval of its Rules of Procedure; and
- b. Consideration of policy matters that impact the functions of the Commission

§ 7. Unauthorized Practice of Law

Business & Professions Code §§ 6125, et seq. prohibit all persons, other than active members of the State Bar, from practicing law in California from advertising or holding themselves

out as practicing or entitled to practice law. The board committee has general policy oversight responsibility regarding the State Bar's participation in the enforcement of these statutory provisions and shall have shared responsibility, with the board legal committee and senior staff, concerning decisions regarding the enforcement of these statutory provisions through the use of injunctive relief.

§ 8. *Multi-Discipline Practice*

The board committee shall have oversight responsibility concerning the State Bar's exploration of multidisciplinary practice models and for the development and recommendation to the Board of an integrated multidisciplinary practice certification process